

REMARKS

I. Status Of The Claims

Claims 1-106 are pending in this application, of which claims 1-7, 10-29, 53, 54, 60, 61, 63, 65, 67, 69, and 72-106 are withdrawn from consideration.

Claims 30-41, 43-52, 56, 66, 68, 70, and 71 are objected to.

Claims 8 and 56-58 are rejected under 35 U.S.C. 112.

Claims 8, 9, 30-52, 55, 59, 62, 64, 66, 68, 70, and 71 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson (U.S. Application No. 2001/0018739), Ginter (U.S. Patent No. 6,427,140), and Bocinsky (U.S. Patent No. 5,371,797).

With this response, claims 8 and 38 are canceled without prejudice or disclaimer, claims 9, 30-37, 39-41, 43-52, 55, 56, 59, 62, 64, 66, 68, 70, and 71 are amended, and claim 107 is added. No new matter has been added.

Of the currently pending claims, claim 8 is independent.

II. Claim Objections

The Office Action objects to claims 30-41, 43-52, 56, 66, 68, 70, and 71 as being dependent on withdrawn claims.

With this response, Applicants amend claims 30-37, 39-41, 43-52, 56, 66, 68, 70, and 71, and cancel claim 38 without prejudice or disclaimer. At least in view of this cancellation and these amendments, Applicants respectfully request that the objections be withdrawn.

III. Rejections Under 35 U.S.C. § 112

The Office Action rejects claims 56-58 under 35 U.S.C. 112, second paragraph “as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.”

The Office Action, referring to Applicants’ indication of page 19 lines 19-23 of the disclosure of the present application in responses to previous Office Actions, states:

“[i]n *re John Covell Collier*, 55CCPA-; 397 F.2d 1003; 158 USPQ 266, Claim- Indefiniteness- Combination- Structural Relationships Between Elements not Positively Recited- 35 U.S.C. 112, second Paragraph. The statement ‘might need to alter’ is about intended uses, capabilities, and structures, which will result upon the performance of future acts, is not a positive structural limitation. The Specification does not positively recite structural relationships of the elements in its recitation of what may or may not occur. In this sense it fails to comply with section 112, second paragraph, in failing distinctly to claim what applicant presents as his actual invention”
(see Office Action, p. 4).

For a number of reasons, Applicants respectfully submit that *In re Collier* is not applicable to the matter at hand.

For instance, Applicants note that *In re Collier* appears to deal with structural limitations in a device claim, while the claim at hand is a method claim.

Moreover, *In re Collier* appears to deal with “statements ... about intended uses, capabilities, and structure which will result upon the performance of future acts” wherein those statements are “in the claim[s]” themselves:

“[a]ppellant appears to argue that we should regard the statements in the claim, indicated by the initial italicized words, about intended uses, capabilities, and structure which will result upon the performance of future acts, as positive structural limitations ...”

(see *In re Collier*; emphasis added).

In contrast, in the matter at hand, the language “might need to alter” noted by the Office Action is in the disclosure, not in the claims.

The Office Action, discussing the language “might need to alter,” indicates that such language is referring to “things, which may be done, [but] are not required to be done.” However, Applicants note, for example, that discussing, in a disclosure, various aspects as being, for instance, applicable only to certain embodiments, as being exemplary, and/or as being optional does not result in claims regarding those aspects not satisfying the requirements of 35 U.S.C. 112.

In view of at least the foregoing and Applicants’ responses to previous office actions, Applicants respectfully request that the rejection of claims 56-58 under 35 U.S.C. 112 be withdrawn.

The Office Action rejects claim 8 under 35 U.S.C. 112 first and second paragraphs.

Applicants respectfully disagree with these rejections. Nevertheless, to facilitate prosecution, with this response Applicants cancel claim 8.

IV. Rejections Under 35 U.S.C. 103

The Office Action rejects independent claim 8 under 35 U.S.C. 103(a) as being unpatentable over Anderson in view of Ginter and Bocinsky.

The present application is a continuation-in-part of U.S. Application serial number 09/501,874, filed February 10, 2000, and incorporates U.S. Application serial number 09/501,874 by reference.

With this response, Applicants cancel claim 8 without prejudice or disclaimer.

Also with this response, Applicants add claim 107 which includes all elements of allowed claim 28 of U.S. Application serial number 09/501,874.

Applicants respectfully submit that claim 107, as well as those claims that depend therefrom, are allowable for at least the same reasons that claim 28 of U.S. Application serial number 09/501,874 is considered to be allowable.

V. Dependent Claims

Applicants do not believe it is necessary at this time to further address the rejections of the dependent claims as Applicants believe that the foregoing places the independent claims in condition for allowance. Applicants, however, reserve the right to further address those rejections in the future should such a response be deemed necessary and appropriate.

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CONCLUSION

Applicants respectfully submit that this application is in condition for allowance for which action is earnestly solicited.

If a telephone conference would facilitate prosecution of this application in any way, the Examiner is invited to contact the undersigned at the number provided.

AUTHORIZATION

The Commissioner is hereby authorized to charge any fees which may be required for this amendment, or credit any overpayment to Deposit Account No. 13-4500, Order No. 3892-4002. **A DUPLICATE OF THIS DOCUMENT IS ATTACHED.**

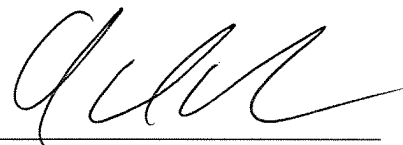
Furthermore, in the event that a further extension of time is required, the Commissioner is requested to grant a petition for that extension of time which is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to the above-noted Deposit Account and Order No.

Respectfully submitted,

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By:



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